

**STATE OF ARIZONA**  
**Citizens Clean Elections Commission**

**ANNUAL REPORT**

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**State of Arizona**  
**Citizens Clean Elections Commission**

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To The Honorable Janet Napolitano  
Governor of Arizona

Dear Governor Napolitano:

We are pleased to submit for your information the 2004 Annual Report for the Citizens Clean Elections Commission, pursuant to Arizona Revised Statutes (A.R.S.) § 16-956(B) (3). The Annual Report describes the activities performed by the Commission in the last calendar year and recommendations for changes in the law.

In 1998, the voters of Arizona passed the Citizens Clean Elections Act. The Commission celebrates the sixth anniversary of the Act through the continued commitment of upholding the letter and spirit of the Act. With the knowledge and experience gained through the last three election cycles, the Commission strives to continuously improve a public funding system that has become the role model for states across the country.

The Commission accomplished its goals set forth with a successful 2004 election year and looks forward to preparing for the same accomplishments and success in the 2006 election.

Respectfully Yours,

A handwritten signature in dark ink, appearing to read "Marcia J. Busching".

Marcia Busching, Chair

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## **EXECUTIVE SUMMARY**

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Throughout 2004, the Citizens Clean Elections Commission (Commission) continued to implement and administer the Citizens Clean Elections (Act) by issuing many new regulations and by improving the process to disburse public funding to qualified candidates. The Commission also emphasized education of Arizonans and accessibility of information provided to the public.

For 4 corporation commission offices and 90 legislative offices up for election, there were 195 candidates in the primary election. Of those 195 candidates, 116, or 59 percent, of the candidates were certified participating candidates to whom the Commission disbursed \$2,246,255. In the general election, there were a total of 156 candidates, among whom 88, or 56 percent, were participating candidates. The Commission disbursed \$2,111,271 of campaign funding to candidates in the general election. Out of 94 elected offices in 2004, participating candidates won 52 percent of the statewide and legislative offices; a 39 percent increase from the 2002 election, and a 17 percent from the 2000 election.

Pursuant to the voter education mandates in the Act, the Commission produced and mailed approximately 3 million Candidate Statement Pamphlets to households with registered voters prior to the start of early voting for both the primary and general elections. The Commission included an early ballot request form in each pamphlet, and partnered with Sun Dial Voter Information Project to ensure that blind and visually impaired voters in Arizona had access to the 2004 Candidate Statement Pamphlets.

The Commission's voter education efforts also included sponsoring debates among statewide and legislative office candidates. A total of 22 debates were hosted for the primary election period and 21 debates were hosted for the general election period.

For the education of Arizonans, the Commission conducted training classes across the state throughout the year. One significant rule change in 2004 was to require all participating candidates and their campaign treasurers to attend a Commission-sponsored training class. The training classes were tailored specifically to meet the needs of the candidates, both participating candidates and nonparticipating candidates, and the campaign treasurers. In addition to providing information about the Clean Elections Act, the workshops also assisted with using the campaign finance software, all campaign finance reporting requirements, and bookkeeping.

By the end of 2004, there were a total of 35 enforcement matters; 18 complaints had been dismissed, 1 settlement agreement, and 5 investigations into possible campaign finance violations.

## **INTRODUCTION TO THE COMMISSION**

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### **Mission Statement**

To fairly, faithfully and fully implement and administer the Citizens Clean Elections Act.

### **Vision Statement**

Through the successful implementation of the Arizona Citizens Clean Elections Act, the Commission seeks to improve the integrity of Arizona state government and promote public confidence in the Arizona political process.

### **Authority**

The Citizens Clean Elections Commission was established by the enactment of the Citizens Clean Elections Act, A.R.S., Title 16, Chapter 6, Article 2. In addition to administering the provisions of Article 2, the Commission promulgates rules and enforces A.R.S. §§ 16-940 through 16-961.

### **Membership**

The Commission consists of 5 members:

No more than 2 shall be members of the same political party.

No more than 2 shall be residents of the same county.

No one shall be appointed who does not have a party registration that has been continuously recorded for at least 5 years immediately preceding appointment, with the same political party or as an independent.

- Each candidate shall be a qualified elector who has not, in the previous 5 years in this state, been appointed to, elected to or run for any public office, including precinct committeeman, or served as an officer of a political party.
- A member of the Commission shall serve no more than one term and is not eligible for reappointment.
- No Commissioner, during his or her tenure or for 3 years thereafter, shall seek or hold any other public office, serve as an officer of any political committee or employ or be employed as a lobbyist.

### **Function**

The Commission holds regular meetings, which are open to the public. In 2004, the Commission held 18 regular meetings. The Commission annually elects a chair. In December 2003, Commissioner David McKay was elected as the Chair of the Commission for 2004.

Core functions of the Commission include providing public funding to qualified candidates; publishing voter education pamphlets and sponsoring debates; administering the Clean Elections Fund; and enforcing campaign finance laws.

### *Voter Education*

- The Commission published a primary & general election candidate statement pamphlet for statewide and legislative office candidates, which was mailed to every household that contained a registered voter.
- The Commission sponsored debates among candidates and required participating candidates to attend and participate in debates. Nonparticipating candidates were also invited to participate in debates.

### *Clean Elections Fund*

- The Commission shall ensure that money from the Fund is placed in candidate campaign accounts or otherwise spent as specified in the Act and not otherwise.
- The Commission shall ensure that money required by the Act to be paid to the Fund is deposited in the Fund.

### *Enforcement*

- The Commission shall monitor reports and financial records of candidates as needed to ensure that equalization monies are paid promptly to opposing qualified candidates.

## **COMMISSION MEMBERS**

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### **David G. McKay – Republican – Coconino County**

Governor Jane Dee Hull appointed Flagstaff resident Dave McKay to the Citizens Clean Elections Commission in 2000 for a term that will expire in 2005. Mr. McKay was elected by the Commission to serve as chair for 2004. Mr. McKay received his bachelor's and master's degrees from Northern Arizona University. He retired after 35 years with the Flagstaff Unified School District, where he served as principal of Thomas Knoles Elementary School (1987-1998); principal of Christensen Elementary School (1982-1987); assistant principal of Christensen and Killip Elementary Schools (1976-1982); title III coordinator for Flagstaff Public Schools (1973-1976); assistant principal for Mt. Elden Elementary School (Killip) (1968-1973); guidance counselor for Flagstaff Elementary Schools (1966-1968); and science teacher for Flagstaff Junior High School (1963-1966). Mr. McKay founded Big Brothers of Flagstaff in 1968 and has served as executive director since. He also has served as a member of the Arizona School Administrators (1982-1997) and as a member of the State Dental Board (2000-2002).

### **Kathleen S. Detrick – Independent – Pima County**

Attorney General Janet Napolitano appointed Tucson resident Kathleen Detrick to the Citizens Clean Elections Commission in 2001 for a term that will expire in 2006. Ms. Detrick has served as the City Clerk and Campaign Finance Administrator for the City of Tucson, Arizona since 1991. The City Clerk is a Charter officer appointed by the Mayor and Council for a two-year term of office. The Campaign Finance Administrator serves at the will of the Mayor and Council. Ms. Detrick has been employed by the Tucson City Clerk's office since 1971. In 1981 Ms. Detrick was appointed Chief Deputy City Clerk and served as the City Elections Director from 1981 until the appointment as City Clerk in 1991. The City of Tucson has the only other public campaign-funding program in the State of Arizona and has been used as a model by other jurisdictions interested in implementing a similar program. Ms. Detrick was a member of the team that developed the Tucson public campaign-funding program and has been part of the administration of the program since its approval by electorate in 1985.

### **Ermila Jolley – Democrat – Yuma County**

Governor Jane Hull appointed Yuma resident Ermila Jolley to the Citizens Clean Elections Commission in 2002 for a term that will expire in 2007. She filled the seat formerly held by Commissioner Carl Lopez, a Tucson resident. Ms. Jolley was appointed to the Yuma County Redistricting Commission in May 2001 and currently serves as president of the Yuma Community Hispanic Forum. Ms. Jolley served as a Democratic precinct committee person in Yuma County until 1992. Ms. Jolley received her bachelor's degree from Northern Arizona University.

### **Marcia Busching – Democrat – Maricopa County**

Marcia J. Busching was appointed by Governor Janet Napolitano to the Citizens Clean Elections Commission in 2003 for a term that will expire in 2008. Ms. Busching has been a resident of Phoenix, Arizona since 1976. A business and real estate attorney from 1977 to 2004, Ms. Busching is certified by the Arizona State Bar as a specialist in a real estate law. In 2004, Ms. Busching retired from the law firm of Sacks Tierney, P.A.

### **Tracey A. Bardorf – Republican – Maricopa County**

Secretary of State Jan Brewer appointed Scottsdale resident Tracey A. Bardorf to the Citizens Clean Elections Commission in 2004 for a term that will expire in 2009. Ms. Bardorf practices business litigation as an Associate for the law firm Gallagher & Kennedy, P.A. in Phoenix. She earned her J.D., cum laude, in May 2000 from Arizona State University. Honors included Order of the Coif, Order of the Barristers, and Maricopa County Bar Association Student of the Year for 2000. She also served as executive editor of *Jurimetrics: The Journal of Law, Science and Technology*. Ms. Bardorf received her undergraduate degree, summa cum laude, from Saint Anselm College. She is fluent in Spanish, German and French, and is proficient in Italian. She is a member of the Maricopa County Bar Association and the Federalist Society, and is admitted to the Arizona Supreme Court, the United States District Court for the District of Arizona, and the United States Court of Appeals for the Ninth Circuit.



## **CITIZENS CLEAN ELECTIONS ACT**

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The Citizens Clean Elections Act, which was passed by voters in the November 1998 General Election, fundamentally changed Arizona's campaign finance laws by establishing a system for publicly funding candidate election campaigns. The system is voluntary; candidates may choose to participate in the system or they may choose to raise funds in the traditional manner.

The Governor proclaimed the Act as law on December 10, 1998. On February 16, 1999, the United States Department of Justice precleared the Act, thereby allowing the Act to go into effect. Then, the Citizens Clean Elections Commission was formed.

### **Qualifying for Funding**

The Act applies to candidates for legislative and statewide offices. To receive public funding for a campaign, a candidate must raise a limited number of \$5 contributions during the qualifying period. Qualifying contributions may be made registered voters. The minimum numbers of \$5 qualifying contributions candidates must obtain during the qualifying period are as follows:

Legislature	210
Mine Inspector	525
Corporation Commissioner	1,575
Superintendent of Public Instruction	1,575
Treasurer	1,575
Attorney General	2,625
Secretary of State	2,625
Governor	4,200

To qualify for funding, participating candidates must apply for public funding with the Secretary of State within one week after the end of the qualifying period. The candidate also must file a list of the persons that made qualifying contributions and give the Secretary of State a check in the amount of the \$5 qualifying contributions received, as well as the original signed contributor slips.

### **Primary Election Spending Limit**

Candidates who qualify for funding in contested party primary elections may receive an amount equal to the original primary election spending limit. The primary election spending limit, as adjusted in 2003 for the 2004 election, are as follows:

Legislature:	\$ 11,320
Mine Inspector:	\$ 22,640
Corporation Commissioner:	\$ 45,280
Superintendent of Public Instruction:	\$ 45,280
Treasurer:	\$ 45,280

Attorney General:	\$ 90,560
Secretary of State:	\$ 90,950
Governor:	\$430,149

### **General Election Spending Limit**

The day after the primary election, qualifying candidates who are major party candidates in opposed elections may receive the following amounts:

Legislature:	\$ 16,980
Mine Inspector:	\$ 33,960
Corporation Commissioner:	\$ 67,920
Superintendent of Public Instruction:	\$ 67,920
Treasurer:	\$ 67,920
Attorney General:	\$135,840
Secretary of State:	\$135,840
Governor:	\$645,224

- An independent candidate is eligible to receive 70 percent of the sum of the original primary and general election spending limits.
- An unopposed candidate is eligible to receive only his or her qualifying contributions as the spending limit for that election.

### **Personal Monies and Early Contributions**

Participating candidates may use a limited amount of personal monies for their campaigns: \$550 for legislative office candidates and \$1,100 for statewide office candidates.

Participating candidates may raise a limited number of private contributions, which are called early contributions, during the exploratory and qualifying periods. The early contributions are limited to \$110 per contributor. The limits on the amounts that candidates may raise in early contributions are as follows:

Legislature:	\$ 2,830
Mine Inspector:	\$ 5,660
Corporation Commissioner:	\$11,320
Superintendent of Public Instruction:	\$11,320
Treasurer:	\$11,320
Attorney General:	\$22,640
Secretary of State:	\$22,640
Governor:	\$44,140

## **Matching Funds**

Participating candidates are entitled to receive matching funds when an opposing, nonparticipating candidate exceeds the primary or general election spending limits. Matching funds also will be provided to participating candidates when independent expenditures are made to advocate the election or defeat of a candidate in the race.

## **Trigger Campaign Finance Reports**

Nonparticipating candidates must comply with additional campaign finance reporting requirements. Nonparticipating candidates must file “original” and “supplemental” campaign finance reports with the Secretary of State when the candidates make expenditures that exceed 70 percent of the primary election spending limit, or receive contributions, less the expenditures through the primary, that exceed 70 percent of the general election spending limit.

Campaign finance reports must be filed electronically with the Secretary of State and bank accounts, campaign finance reports and financial records relating to the campaign must be available for public inspection.

Any individual or entity making an independent expenditure to advocate the election or defeat of a candidate must report the expenditure once it exceeds \$550 in an election cycle. Subsequently, a supplemental campaign finance report must be filed by the next due date whenever previously unreported independent expenditures exceed \$1,000.

## **VOTER EDUCATION AND OUTREACH**

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Pursuant to A.R.S. § 16-949(C), the Commission shall apply ten percent of the calendar year budget on expenses associated with voter education. The Commission's voter education and outreach activities during 2004 are set forth below.

### **Candidate Debates**

Pursuant to A.R.S. § 16-956(A) (2), the Commission sponsored debates among candidates prior to the primary and general elections. Participating candidates were required to attend and participate in debates, and nonparticipating candidates were invited to participate in debates.

In preparation for the 2004 election, the Commission sought out qualified organizations to host the debates within the Commission's scope of work. A debate committee was established to evaluate potential sponsors based on predefined evaluation criteria. The evaluation criteria were as follows, listed in the relative order of importance: method of approach, debate experience and expertise, perception of nonpartisanship and cost. The Commission approved a total of 15 debate sponsors.

A total of 22 primary election debates were held across the state in July and August 2004. A total of 21 general election debates were held across the state in September and October 2004. A total of approximately 1,500 citizens attended 43 debates, for an average of 35 citizens per debate. The statewide debates were aired live on the sponsor's website and remained archived on the website following the debates.

### **Candidate Statement Pamphlets**

Pursuant to A.R.S. § 16-956(A) (1), the Commission produced primary and general election candidate statement pamphlets that were mailed to every household in Arizona containing a registered voter before the start of early voting. Approximately 1.4 million Arizona households contain a registered voter. The candidate statement pamphlets were also mailed to chambers of commerce, motor vehicle department, senior centers, political parties, schools and local libraries.

The Commission adopted changes to the candidate statement pamphlets to increase the amount of information given to voters. In 2004, the pamphlets included candidate photographs and 200 word statements. In addition, candidates were able to submit two separate statements—one for the primary and one for general election pamphlet. The Commission also added information pages on Sun Sounds of Arizona and Kids Voting Arizona. The covers of the pamphlets were the results of a statewide cover design contest for high school students.

Participating and nonparticipating candidates who appeared on either the primary or general election ballot were given the opportunity to supply the Commission with a statement for inclusion in the pamphlets. The pamphlets included the office sought, as well as the candidate's name, party affiliation, funding source, web address, photo and 200-word statement.

The Commission contracted with Tieken/Moret for the layout of the pamphlets and Trend Offset Printing for the printing and distribution of the pamphlets. An on-line Candidate Statement Submission Kit was created to take candidates through every step of submitting a statement and a photo for inclusion in the pamphlets.

## **Publications**

The Citizens Clean Elections Commission issued the following publications:

- *Citizens Clean Elections Act, Rules and Policies Manual*
- *2004 Participating Candidate Guide*
- *2004 Nonparticipating Candidate Guide*
- Ten new informational handouts for participating candidates
- Election timelines for statewide and legislative candidates

## **Website ([www.azcleanelections.gov](http://www.azcleanelections.gov)):**

The Commission maintains an Internet site that provides many client services, including the following:

- Notices for Commission meeting agenda and meeting minutes
- List of candidates who received public funding for the 2000, 2002, and 2004 elections
- Publications and forms
- Staff contact information and e-mail access
- Biographies of current Commissioners
- Press releases
- Substantive policy statements
- Proposed legislative changes
- Proposed rules for public comment
- *Citizens Clean Elections Act, Rules, and Policies Manual*
- Links to the Arizona Statutes, State of Arizona, Secretary of State and Arizona State Legislature

In 2004, the Commission established a new web address ([www.azcleanelections.gov](http://www.azcleanelections.gov)) in order to comply with the Government Information Technology Agency (GITA) standards. The design of the new website is underway and will be completed in 2005.

## **Voter Outreach**

Educating Arizonans about the Clean Elections Act continued to be a major function of the Commission in 2004. The outreach consisted of speaking to social service organizations, civic clubs, and other interested parties. The Commission also maintained a presence at civic events to distribute informational literature and launched a statewide education campaign that consisted of informational advertisements on television, radio, newspapers and movie theaters.

## **Candidate Workshops**

The Commission implemented mandatory educational workshops for all participating candidates and their treasurers. Voluntary workshops were given for nonparticipating candidates. The workshops were intended to provide candidates with in-depth information regarding the provisions of the Clean Elections Act to ensure that candidates were fully equipped to abide by the Act. The Participating Candidate Workshops were held throughout the year and concluded in July 2004. Organization of the workshops included developing an informational PowerPoint presentation, handouts, and a schedule of workshops.

Postcards were mailed to all participating candidates to inform them of the Commission's scheduled workshops. Ads were created for *The Capitol Times*, which ran continuously for 5 months (January 2004-May 2004). Ads were also created for inclusion in *The Arizona Republic* and *The Tucson Citizen*, which ran once a month for four months (January 2004-April 2004).

The *Participating Candidate Guide* and the *Nonparticipating Candidate Guide* were informational tools produced in 2004 by the Commission to walk candidates through all aspects of the Clean Elections Act. The *Guides* provided a valuable resource to enhance candidates' knowledge of the Act. The 2003-2004 *Candidate Guides* were also made available on compact disc.

## **RULE CHANGES**

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At the November 18, 2003 Commission meeting, the Commission proposed numerous changes to its rules. The rules were then subject to public comment for 60 days. At the January 28, 2004 Commission meeting, the Commission addressed the proposed changes for final adoption. The proposed rule changes were developed based on input from staff, Commissioners, the Assistant Attorney General, the Secretary of State, the Clean Elections Institute, candidates, attorneys and various other interested parties.

The following is a summary of the approved changes:

### **Article 1. General Provisions**

- Provides definitions of the terms “audit,” “candidate,” and “examination.”
- Consolidates rules for computing periods of time and the procedure for the Commission’s methods of communication with candidates.
- Explains how a nonparticipating candidate may dispose of monies from a prior campaign if the candidate wants to become a participating candidate.
- Expands the time that a candidate may become a participating candidate after being a nonparticipating candidate- during the exploratory and qualifying periods.
- Requires a participating candidate to file an amended application for certification if there are any changes to the candidate’s information.
- Requires each participating candidate and the candidate’s treasurer to attend a training seminar hosted by the Commission.
- Provides that a participating candidate may not incur debt prior to qualifying for Commission funding in excess to the cash on hand.
- Specifies which candidates are permitted to participate in Commission sponsored debates and under which circumstances no debate will be held.
- Requires a campaign finance report that reports all \$5 qualifying contributions be filed prior to applying for funding.
- Establishes deadlines for Qualifying Period recap campaign finance and Primary Election recap campaign finance report.
- Provides the procedure for rectifying matching funds provided to participating candidates when the nonparticipating candidate files an amended campaign finance report in order to correct previously reported inaccurate information.
- Itemizes books and records retention requirements for all candidates, and the responsibilities of the treasurer.
- Identifies the calculation procedure for matching funds for participating candidates.

### **Article 2. Compliance and Enforcement Procedures**

- Changes the time period allowed for an alleged violator to respond to a complaint from 14 days to 5 days.
- Eliminates language regarding public disclosure of Commission actions because all Commission actions are always public information.

#### Article 4. Audits

- Eliminates language for the conduct of fieldwork. The procedure for conducting fieldwork will be determined by the auditing firm contracted by the Commission.
- Eliminates the requirement for the auditor to produce a preliminary audit report and provides that if a preliminary audit report cannot be completed by the auditor, the Commission shall notify the candidate in writing that the audit report will not be completed.

#### Article 7. Use of Funds and Repayment

- Establishes a list of prohibited use of campaign funds for a participating candidate and reiterates that all campaign expenditures must be directly related to the campaign.
- Defines fixed assets and increases fixed assets allowable purchases to \$600.
- Increases the time limit that the Commission may order a participating candidate to repay monies to the Commission to one year after the election.

Based on the public comments regarding the above-referenced rules, the Commission made additional changes to ten of the rules. The sixty-day public comment period for the specific rule changes began on January 29, 2004 and ended on March 29, 2004. The following is a summary of the changes to the rules:

#### Article 1. General Provisions

- In the definition of audit, the change clarified that an audit will pertain to the candidate's campaign finances, not the agents or personnel.
- A copy of communication will be sent electronically if possible, but a communication will always be sent by mail to ensure receipt.
- In the officeholder expense rule, the amount an individual may give to a candidate was reduced to one-half the early contribution limit, and a provision was added to prohibit lobbyists from making contributions to members of legislature or governor when the Legislature is in regular session.
- Establishes that participating candidates must return unused funds to the Commission within 5 days of filing the return of funds reports.
- Repealed the Inaugural Expense rule.
- Replaced the word communication with the word expenditure in the calculation of matching funds.

#### Article 7. Use of Funds and Repayment

- Establishes the limits for payments of meals for the candidate or volunteers.
- Deletes the rule requiring documentation for each food or beverage purchase and who consumed the food or beverage because it would be overly burdensome.
- Refines the definition of fixed asset.
- Establishes the state interest rate for repayment obligations.



## **LITIGATION**

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### ***Mainstream Arizona v. Citizens Clean Elections Commission***

Plaintiff Mainstream Arizona filed a Complaint for Special Action and Application for Order to Show Cause against the Citizens Clean Election Commission after the Commission's staff disbursed matching funds for unreported independent expenditures paid for and distributed by Mainstream Arizona. The Court denied Mainstream's request for special action relief and ruled in the Commission's favor on the merits.

Superior Court Judge Edward Burke ruled that the Commission's determination that Mainstream's mailers constituted independent expenditures was supported by the context and timing of the mailers. The content of the mailers sufficiently suggested that they were expressly advocating for the re-election of the legislators so the Court would not substitute its judgment for that of the Commission. Further, the Commission's decision to fund candidates impacted by Mainstream's mailers had no direct impact on Mainstream's right to freedom of speech. Because the Commission's action in providing matching funds had no direct impact on Mainstream, it was not deprived of due process by not having been given an opportunity to be heard in regard to that decision.

### ***Arizona at its Best v. Brewer***

Arizona at its Best, a not-for-profit organization, challenged the constitutionality of the definition of "expressly advocates." The organization alleged that A.R.S. § 16-901.01(A) (2) (b), which makes general publication communication referring to one or more clearly identified candidates and targeted to the electorate of the candidate within the sixteen-week period preceding the general election, is vague and overly broad resulting in a chilling effect on the organization's free speech. The case is still pending in federal court.

### ***Association of American Physicians and Surgeons v. Brewer***

Association of American Physicians and Surgeons, a political committee, and three candidates, Matt Salmon, Dean Martin, and Lori Daniels, filed a lawsuit in United States Districts Court for the District of Arizona challenging the constitutionality of the matching funds provision in the Clean Elections Act. Plaintiffs alleged that the reporting requirements for nonparticipating candidates and independent expenditure committees, which result in matching funds to participating candidates, violate the First and Fourteenth Amendments to the United States Constitution. Plaintiffs sought a declaration that the entire Act is void, and a permanent injunction against the Commission from implementing and enforcing the Act.

Judge Earl Carroll denied the Plaintiff's motion for a preliminary injunction to enjoin the Commission from disbursing matching funds. The court has not ruled on the State's motion to dismiss.

### ***Clean Elections Institute v. No Taxpayer Money for Politicians***

The Arizona Supreme Court upheld Superior Court Judge Margaret Downie's ruling in which she found that an initiative entitled No Taxpayer Money for Politicians violated the "single subject rule" of the Arizona Constitution. The initiative, which would have defunded the Clean Elections Act, sought to incorporate in one ballot measure at least two separate constitutional amendments that do not form a consistent and workable whole. Therefore, the initiative, Proposition 106, did not appear on the 2004 ballot.

## **RECOMMENDATIONS FOR CHANGES TO THE LAW**

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1. Remove the provisions that Arizona courts have found unconstitutional:
  - I. Lobbyist fee provision, A.R.S § 16-944, and
  - II. Duties of Commission on Appellate Court Appointments and members of the Supreme Court. A.R.S § 16-955.
2. Modify the filing timeframes:
  - I. Begin the Qualifying Period after the preceding general election, and
  - II. End the Qualifying Period 49 days before the primary election, rather than 75 days prior to the general election. A.R.S § 16-961 (B) (3).
  - III. Begin the Exploratory Period after the preceding general election and ending August 1<sup>st</sup> in a year preceding an election for a statewide office candidate, or on January 1<sup>st</sup> of an election year for a legislative office candidate. A.R.S § 16-961 (B) (2).
3. Modify reporting requirements for candidates:
  - I. Additional filings for participating candidates:
    - a. File a campaign finance report after the end of the qualifying period to determine if early contributions have been spent or need to be returned to the Clean Elections Fund, and
    - b. File a campaign finance report when applying for certification to be a participating candidate. A.R.S § 16-947.
  - II. Reduce the reporting requirements for nonparticipating candidates by only requiring the original and supplemental trigger reports when a nonparticipating candidate is opposed in the primary and general elections by a participating candidate. A.R.S §§ 16-941(B)(2) & -958.
4. Simplify the process for qualifying for funding:
  - I. Participating candidates would be required to file the Application for Funding at the end of the qualifying period, rather than a week after the end of the qualifying period,
  - II. Qualifying contribution forms would first be checked by the Secretary of State's Office,
  - III. Include a provision for a supplemental filing of qualifying contributions if the candidate fails to qualify for funding the first time, and

- IV. Increase the random sample for legislative office candidates to 20 percent from 5 percent. A.R.S §16-950.
- 5. Amend matching funds provision in the general election for participating candidates who are opposed by a nonparticipating candidate who was unopposed in the primary election. Matching funds for the participating candidate would begin after the nonparticipating candidate's contributions exceed the sum of the primary and general election spending limit. A.R.S § 16-952(C)(4).
- 6. Strengthen enforcement authority and civil penalties:
  - I. General enforcement authority is given to impose civil penalty up to \$1,000 for any violation where no penalty is specified. A.R.S. § 16-942.
  - II. Require that clean elections funding only be used for campaign expenses, not personal expenses, and provides for repayment of misspent monies. A.R.S. § 16-948.
  - III. Adds provision to impose a civil penalty of \$500 a day against a political committee for not complying with the Act's reporting requirements. A.R.S § 16-942.
- 7. Prohibit participating candidates from accepting qualifying contributions prior to being certified as a participating candidate pursuant to A.R.S § 16-947. A.R.S § 16-946(A).
- 8. Voter Education. For the candidate statement pamphlet published by the Commission, require candidate statements to be about the candidate, not to attack an opponent, and authorize the Commission to reject statements that do not conform to these requirements. A.R.S § 16-956(A)(1).

## **STAFF DUTIES**

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### **Executive Director**

Facilitate achievement of the Commission's goals and objectives. Direct agency operations and supervise staff, advise and support the Commission, oversee and monitor the implementation of the Commission policies and procedures, publications and forms. Advise the Commission on potential and pending issues and provide and establish efficient and effective mechanisms of communication among various stakeholders of the Act. Oversee and monitor the implementation of Commission policies and procedures. Set agenda and prepare materials for Commission and committee meetings. Serve as the Commission's representative to the Legislative and Executive Branch. Educate and assist candidates in compliance with reporting requirements, limits, and prohibitions, and assist candidates in participating and obtaining public funding.

### **Deputy Director**

Serve as advisor to the Executive Director and assist in the daily administration and management of agency operations. Provide assistance and support to Executive Director in all aspects of staff supervision including program management, performance evaluations, strategic planning, implementation of Commission policies and special projects as requested. Provide oversight, direction and assistance to agency staff on voter education, public relations, candidate education, candidate debates, compliance programs, budgeting, annual reports, financial systems and other areas as directed or needed. Serve in an external relations function through public speaking engagements, and through membership, participation and involvement in relevant civic and professional organizations. Assist Executive Director in serving as a liaison to state agencies, legislators and other intergovernmental jurisdictions.

### **Executive Assistant**

Manage human resource procedures and systems requirements. Serve as agency liaison to candidates and other state agencies. Provide technical service, assistance and training to Commission staff. Assist the Executive Director in the development of operating policies and procedures; assist in long-range organization planning; conduct special studies; recommend changes to correct operating deficiencies; recommend improvements to the provision of services to the public; prepare administrative directives; provide assistance and guidance as requested; represent the Executive Director at meetings involving personnel, government officials, political candidates and public leaders; prepare a variety of administrative reports; supervise personnel; assist Executive Director in executing the Citizens Clean Elections Act.

### **Fiscal Services Manager**

Review, monitor and control amounts expended from the budget to assure that expenditures do not exceed funds available; report problems to Executive Director; and

read and analyze budget requests, gather data, confer with agency personnel, and make budget recommendations. Serve as the primary liaison between the Commission and the General Accounting Office, vendors and other subcontractors for the proper functioning of all financial systems and transactions. Develop standard operating procedures for all financial procedures relating to Commission activity. Gather and compile data and write detailed reports summarizing financial transactions and status of accounts for a given period; allocate funds to agency programs including voter education, administration and enforcement; and compose directives and procedures as these relate to financial activities of the agency. Develop, maintain, and manage complex database applications to support administration of all Commission programs and activities. Maintains agency's inventory; Acts as the agency's Information & Technology coordinator.

### **Voter Education Manager**

Responsible for the development and distribution of the Candidate Statement Pamphlet to every household with a registered voter. Provide advice and guidance to debate sponsors and candidates for candidate debates. Manage all aspects of publicity, marketing and educational publications for the Commission, including advertising the Commission activities for debates, candidate statement pamphlets, and tax donations in newspapers, on radio, and other media. Travel statewide to provide educational seminars to candidate committees and community groups. Work with elected officials, community leaders, large and small employers, political parties, media and other state and local officials to enhance the understanding of the Act. Develop and circulate a quarterly *Bulletin*, updating interested parties on topics of interest regarding the Act. Provide updates for the website. Create informational brochures and handouts for distribution to voters. Establish fundamental measures for the execution of bi-yearly market research. Develop, maintain, and manage complex database applications to support administration of all Commission programs and activities.

### **Campaign Finance Analyst**

Monitor and review both participating and nonparticipating candidate campaign finance reports. Calculate matching funds for participating candidates based on nonparticipating candidate campaign finance reports. Maintain contact with campaign treasurers and Secretary of State Elections staff. Responsible for all aspects of the candidate complaint process, including investigation and analysis; making recommendations to the Executive Director regarding the statute or rule violation; and tracking each complaint on the complaint tracking database program. Determines one-party-dominant legislative districts. Monitor and track independent expenditures for possible matching funds.

### **Administrative Assistant III**

Provide administrative assistance to the Executive Director and Commission. Provide support in the preparation and execution of monthly Commission meetings, including posting meeting agendas, drafting meeting mailings, ensuring meeting materials are delivered to commissioners prior to meetings. Maintain records for compliance with

open meeting law requirements, organizes and maintains meeting materials, and responsible for audiotape recording of regular meetings and executive sessions. Monitor inventory and office supplies. Produce computer-generated letters, memorandum and reports, and assists with front desk duties when necessary.

### **Administrative Assistant II**

Provide administrative support to staff as needed. Answer incoming calls, draft letters, memos, agendas, and faxes. Schedule project and client meetings on and off-site, and contact attendees to determine availability and to confirm meetings. Photocopy and distribute memos, correspondence and routine mailings. Prepare documents for mailing, open and distribute mail, and oversee mail meter. Monitor receipt of facsimiles, ensures supplies for copy machines and printer, and organize electronic mail distribution lists.

## **FINANCIAL INFORMATION**

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### **Cap on Total Expenditures**

The Act prescribes certain caps on expenditures from the Citizens Clean Elections Fund. Pursuant to A.R.S. § 16-949(A), the Commission shall not spend more than \$5 times the number of Arizona resident personal income tax returns filed during the previous calendar year on all costs incurred under the law during a particular calendar year. In calendar year 2004, there were 2,169,638 personal income tax returns filed with the Arizona Department of Revenue. The cap on total expenditures for calendar year 2004 from the Citizens Clean Elections Fund was \$10,848,190.

### **Administration/Enforcement**

The Act imposes a cap on expenditures for administration and enforcement activities. The Commission may use up to 10 percent of the annual limit on costs for reasonable and necessary expenditures for administration and enforcement pursuant to A.R.S. § 16-949(B). The amount of \$1,084,819 was the cap for reasonable and necessary expenditures for administration and enforcement in calendar year 2004. The Commission spent \$753,224 or 6.9 percent of the amount specified in § 16-949(A), well below the authorized cap for administration and enforcement expenditures.

### **Voter Education**

The Commission is required to spend 10 percent of its annual cap on revenue for voter education pursuant to A.R.S. § 16-949(C). In 2004, the Commission spent \$2,955,761 or 27.2 percent of the amount specified in A.R.S. § 16-949(A). In 2004, candidate funding equaled \$4,283,883 or 39.5 percent of the amount specified in A.R.S. § 16-949(C).

### **Projected Revenue**

Pursuant to A.R.S. § 16-954(D), “at least once per year the Commission shall project the amount of monies that the Fund will collect over the next four years and the time such monies shall become available.” On November 30, 2004, the Commission adopted the following revenue projections:

<b>Calendar Year</b>	<b>Income Tax Returns</b>	<b>Cap on Spending</b>
2005	2,213,031	\$11,065,155
2006	2,257,292	\$11,286,460
2007	2,303,438	\$11,517,190
2008	2,349,507	\$11,747,535



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## Citizens Clean Elections Fund Sources of Revenue

FINES, FORFIETURES & PENALTIES	
Court Assessments *	\$7,456,168
Commission Assessments**	4,670
OTHER REVENUE	
\$5 Tax Reduction Check-offs	4,353,736
Voluntary Donations	135
Tax Credit Donations	128,196
Candidate Qualifying Contributions	197,585
Other Miscellaneous	3,080
TOTAL REVENUE	\$12,143,570

\*This line item reflects the 10% surcharge imposed on all civil and criminal fines and penalties.

\*\*This line item reflects Commission imposed penalties on candidates.

## Citizens Clean Elections Fund Expenditures

	Administrative and Enforcement	Voter Education	Campaign Funds	Total
<b>EXPENDITURES</b>				
Personal Services	\$262,696	\$210,900	\$0	\$473,596
Employee-Related Expenditures	\$58,773	\$49,943	\$0	\$108,716
Professional & Outside Services	\$292,188	\$1,100,055	\$0	\$1,392,243
Travel In-State	\$3,635	\$1,843	\$0	\$5,478
Travel Out-of-State	\$3,082	\$0	\$0	\$3,082
Aid to Individuals/Organizations	\$0	\$0	\$4,282,954	\$4,282,954
Other Operating Expenditures	\$123,905	\$1,585,936	\$928	\$1,710,769
Capital Equipment	\$1,825	\$2,812	\$0	\$4,637
Non-Capital Equipment	\$7,121	\$4,272	\$0	\$11,393
<b>Total Expenditures</b>	<b>(\$753,224)</b>	<b>(\$2,955,761)</b>	<b>(\$4,283,882)</b>	<b>(\$7,992,868)</b>

## Citizens Clean Elections Fund Summary of Sources of Revenues and Expenditures

<b>Beginning Fund Balance (January 1, 2004)</b>		\$11,211,653
Revenues		
Fines, Forfeitures and Penalties:		
Court Assessments	\$7,456,168	
Commission Assessments	\$4,670	
Other Revenue:		
\$5 Tax Check-off	\$4,353,736	
Voluntary Donations	\$135	
Tax Credit Donations	\$128,196	
Candidate Qualifying Contributions	\$197,585	
Other Miscellaneous	\$3,080	
<b>Total Revenues</b>		\$12,143,570
Expenditures		
Administrative and Enforcement	(\$753,224)	
Voter Education	(\$2,955,761)	
Campaign Funds	(\$4,283,883)	
<b>Total Expenditures</b>		(\$7,992,868)
Adjustment to AFIS*		(\$1,232)
<b>Ending Fund Balance (December 31, 2004)</b>		\$15,361,123

\*The Commission operates on a calendar year basis and the state accounting system operates on a state fiscal year basis (July 1 to June 30). This line item reflects adjustments for calendar versus fiscal year balance.

## DEMOGRAPHIC SUMMARY

### 2004 Election

	Statewide & Legislative	Statewide	Legislative	Dem	Rep	Lib	Ind	Green Party
All Candidates in Primary	195	7	188	82	101	11	1	not recognized
Clean Elections Candidates in Primary	116	7	109	57	58	1	0	not recognized
% Clean Elections Candidates in Primary	59%	100%	58%	70%	57%	9%	0%	not recognized
All Candidates in General	156	7	149	66	74	15	1	not recognized
Clean Elections Candidates in General	88	6	82	46	44	2	0	not recognized
Clean Elections Winners in General	46	4	42	18	28	0	0	not recognized
% Clean Elections Candidates Winning General	29%	57%	28%	27%	38%	0%	0%	not recognized

### 2002 Election

	Statewide & Legislative	Statewide	Legislative	Dem	Rep	Lib	Ind	Green Party
All Candidates in Primary	247	39	208	110	124	10	3	not recognized
Clean Elections Candidates in Primary	139	26	113	71	60	5	3	not recognized
% Clean Elections Candidates in Primary	56%	67%	54%	65%	48%	50%	100%	not recognized
All Candidates in General	170	23	147	77	76	13	4	not recognized
Clean Elections Candidates in General	89	16	73	51	30	5	3	not recognized
Clean Elections General Winners	39	7	32	17	22	0	0	not recognized
% Clean Elections Candidates Winning General	23%	30%	22%	22%	29%	0%	0%	not recognized

### 2000 Election

	Statewide & Legislative	Statewide	Legislative	Dem	Rep	Lib	Ind	Green Party
All Candidates in Primary	223	7	216	97	109	10	1	6
Clean Elections Candidates in Primary	59	5	54	43	12	0	0	4
% Clean Elections Candidates in Primary	26%	71%	25%	44%	11%	0%	0%	67%
All Candidates in General	153	7	146	70	68	8	1	6
Clean Elections Candidates in General	44	3	41	32	8	0	0	4
Clean Elections Candidates: General Winners	16	2	14	11	5	0	0	0
% Clean Elections Candidates Winning General	10%	29%	10%	16%	0.07%	0%	0%	0%